



Planning and Development Acts 2000 to 2019

Planning Authority: Carlow County Council

Planning Register Reference Number: 19/10

Appeal by Patrick Dowdall of 13 The Orchards, Tullow Road, Carlow against the decision made on the 14th day of March, 2019 by Carlow County Council to grant subject to conditions a permission to Figtree Limited care of Larkin Associates of 62 Lower John Street, Wexford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission to retain works carried out to a Protected Structure, Reference 100000440 and RPS Number CT79 and retention of the change of use of 232.27 square metres from residential (basement, ground and first floor) to a restaurant use, including a new electricity meter store to the front garden and 16.20 square metres covered outdoor deck to the rear of Mimosa Wine and Tapas Bar and also construction of a single storey 119.08 square metres extension to an existing kitchen (part of Mimosa Wine and Tapas Bar) and conversion of part of the existing kitchen to use as customer and staff toilets and a wash up area at Mimosa Wine and Tapas Bar (a Protected Structure, Reference 100000440 and RPS Number CT79) and all associated site works. This is further to the granted

permissions, planning register reference numbers 11/6421 and 16/139, all at College Street, Carlow.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the location of the site in Carlow town centre, the nature and scale of the development proposed to be retained and carried out, the pattern of development in the area, and the planning history and existing use of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity, would not adversely affect the character or setting of the Protected Structure or the Architectural Conservation Area, would be acceptable in terms of pedestrian and traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained and carried out, as applicable, in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within three months of the date of this Order, or before the commencement of any further development, as provided for in those conditions, and the development shall be retained and carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed 'Fire Escape Right of Way' as detailed on drawing number 19-685/PP/02 submitted with the application shall be omitted from the scheme, and shall not be constructed. No opening shall be made in the boundary wall.

Reason: In the interest of clarity and to protect the character and setting of the Protected Structure.

3. The external roof and wall finishes of the proposed extension shall be in accordance with the details specified on drawing number 19-685/PP/03, as submitted with the application. The plaster finish shall be painted in a neutral colour.

Reason: In the interests of architectural harmony and architectural heritage conservation.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. The developer shall comply with the following requirements in relation to the works to the Protected Structure, which shall be carried out in accordance with the document: “Architectural Heritage Protection – Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011):
 - (a) The cast-iron bootscraper shall be repaired as detailed on page 125 of the ‘Architectural Heritage Impact Assessment, Conservation Report and Photographic Survey’ submitted with the application.
 - (b) Within three months of the date of this Order, the developer shall submit to, and agree in writing with, the planning authority proposals for the storage, in a secure location, of the windows removed from the west-facing elevation of the Protected Structure and any related features, including, sills, in order to facilitate future reinstatement.
 - (c) Within three months of the date of this Order, the developer shall submit to, and agree in writing with, the planning authority detailed drawings and specifications, including finishes, for the alterations carried out to the first-floor level window in the rear elevation of the Protected Structure to facilitate the emergency (fire) escape. This shall include proposals to retain all joinery, architraves and shutters/risers, or, where they have been removed, for their reinstatement.

- (d) Within three months of the date of this Order, the developer shall submit to the planning authority a full record of the Protected Structure prior to any works commencing on the site. It shall include a full set of measured elevations and plans and a photographic survey annotated and cross-referenced with the drawings, in accordance with the standards for “recording as a condition of permission” as set out in Section 6.7.3 to 6.7.5 of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

No further works shall commence on the site until parts (b) to (d) of this condition are complied with, to the written satisfaction of the planning authority.

Reason: In the interest of architectural heritage protection.

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001, as amended, no signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, other than the signage shown on the particulars submitted with this application, shall be erected within the site and adjoining lands under the control of the applicant, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess the impact of any further signage through the statutory planning process.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any further development on the site. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste. In particular, the Plan shall ensure that, during the construction phase, adequate off-carriageway parking facilities shall be provided for all traffic associated with the development, including delivery and service vehicles/trucks, and parking for all construction workers.

Reason: In the interests of public safety and amenity.

8. A plan containing details for the management of waste within the development, including the provision of facilities for its storage, separation and collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any further development on the site. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, in the interest of protecting the environment.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

10. The developer shall pay to the planning authority a financial contribution of €39,802 (thirty-nine thousand, eight hundred and two euro) in respect of public infrastructure and facilities, including in lieu of a shortfall of six number car parking spaces, benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of any further development on the site or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Philip Jones

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.